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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,589	07/02/2003	Jeffrey M. Simpson	2S14.1-011	6134

23506 7590 11/03/2004

GARDNER GROFF, P.C.  
PAPER MILL VILLAGE, BUILDING 23  
600 VILLAGE TRACE  
SUITE 300  
MARIETTA, GA 30067

EXAMINER
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SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/612,589

Applicant(s)

SIMPSON, JEFFREY M.

Examiner

Robert P. Swiatek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-27 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2-23-04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Poulson et al. (US 539,394). The patent to Poulson et al. discloses a wall structure including a metallic frame A, B with interwoven, metallic lathing C. The structure of which the Poulson et al. partition is a part could be employed to enclose an animal.

Claims 1-4, 9, 10, 25-27 are rejected under 35 U.S.C. 102(a) as being anticipated by Ziglar (US 6,601,723 B1). The Ziglar patent discloses frames 112, 114, 116, 218 comprised of metal and hingedly connected together. Flexible, non-porous material is woven onto the frames (see Figures 3, 4 of Ziglar) to form panels. Column 2, lines 35-40, of Ziglar indicates the non-porous, woven material 104, 106 can be, *inter alia*, plastic; the finished product is considered to resemble rattan or wicker. As to claim 1, an animal could be placed within the Ziglar hamper. With regard to claim 25, if the Ziglar hamper is reoriented such that panel 206 is on the bottom, it becomes a base panel with side and end panels hingedly connected to it; in such a scenario, panel 104 becomes a top panel. Hinge knuckles 182, 183 of panel 206 are considered to be

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offset with one another along a longitudinal axis. With respect to claim 27, Figure 5 of Ziglar depicts (unnumbered) connector links between panel "bottom" panel 206 and grate 202.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 13, 15-17, 20, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulson et al. in view of Smith et al. (US 318,812). The Poulson et al. patent does not disclose an opening and associated door in their wall structure. However, it would have been obvious to one skilled in the art to provide the wall structure of Poulson et al. with the swinging door h of the Smith et al. patent, in order to permit easy passage of items with a minimum of obstruction through the partition. As to claims 6, 16, 20, provision of a latch to secure the door in an open position would have been obvious to one skilled in the art seeking to prevent inadvertent movement or closure of the door while in use. With respect to claim 13, use of plastic in the construction of the Poulson et al. wall structure, while not disclosed, nonetheless would have been obvious to one skilled in the art seeking to reduce costs.

Claims 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bohlen (US 2,247,598). The Bohlen enclosed bed includes a floor panel 4, support legs 17, and a plurality of channels 4' that receive cooperating portions 6 of the enclosed bed. The preamble of claim 22 has not been given weight inasmuch as a pet could be placed in the Bohlen bed. As to claim 24, the panel is considered to resist movement in any one direction by virtue of the tension exerted by the springs 6.

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Claims 13-19, 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 13, lines 2, 3, and claim 25, lines 9, 10, it is unclear if the plastic material itself is woven onto the frame or whether it has only the appearance of being woven onto the frame.

In claim 24, line 3, "is/are" should be changed to ~~is/are~~.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of channels or grooves of claim 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.


Claims 14, 18, 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 11, 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

The patents to Lloyd et al. (US 4,170,312) and Draft (US 6,694,918 B2) have been cited to provide additional examples of enclosures.

RPS: 0703/308-2700  
19 October 2004

  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
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